

**IN THE UNITED STATES DISTRICT COURT FOR THE
MIDDLE DISTRICT OF NORTH CAROLINA**

United States of America,

Plaintiff;

v.

Terry Johnson, in his official capacity as
Alamance County Sheriff,

Defendant.

No. 12-cv-1349

**JOINT MOTION TO MODIFY EXPERT
DISCLOSURE DEADLINES**

The United States and Alamance County Sheriff Terry Johnson (collectively, “the Parties”) respectfully ask this Court to modify the expert discovery deadlines set forth in this Court’s July 22, 2013, Order, ECF No. 32, by extending the deadlines for expert disclosures by one week. The Parties’ propose the following new deadlines:

- Simultaneous submission of expert disclosures and expert reports:
November 15, 2013;
- Submission of rebuttal expert reports: December 27, 2013;
- Depositions of expert witnesses: December 27, 2013 – January 24, 2014;
- Completion of expert discovery period: January 24, 2014.

Federal Rule of Civil Procedure 16(b)(4) provides that a district court may modify a discovery schedule “for good cause and with the judge's consent.” The Rule 16 inquiry centers on the diligence of the party or parties requesting a modification. Advisory Comm. Note to Rule 16(b), 1983 (Court may “modify the schedule on a showing of good cause if the deadline cannot be met despite the diligence of the party seeking the extension.”); *see also Montgomery v. Anne Arundel County*, 182 F. App’x. 156, 162 (4th Cir. 2006) (Under Rule 16(b)’s good cause standard, “the primary consideration is the diligence of the moving party”); *Odyssey Travel Ctr., Inc. v. RO Cruises, Inc.*, 262 F.

Supp. 2d 618, 632 (D. Md. 2003) (“The primary consideration of the Rule 16(b) ‘good cause’ standard is the diligence of the movant.”).

Here, the Parties have diligently pursued discovery. The Parties reached a Rule 26(f) discovery agreement, ECF No. 8; agreed to a separate Stipulation and Order Regarding Discovery; ECF Nos. 14 and 16; exchanged initial disclosures and supplemental disclosures; have taken 51 depositions of fact witnesses, and worked to prepare expert disclosures. Despite these efforts, however, it is not possible for the United States is unable to complete its expert disclosures by the current deadline of November 8, 2013.

Accordingly, the Parties ask the Court to extend the deadline for initial and rebuttal expert disclosures by one week, as set forth above. The extension requested by the Parties would not impact other case management deadlines.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I certify that the foregoing Joint Motion to Modify Expert Disclosure Deadlines was served through the electronic filing service on November 5, 2013 to the following individual:

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